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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,733	08/14/2001	Matthew Edward Volpenhein	8206M	9024

27752 7590 08/31/2006

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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EXAMINER
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DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 08/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/929,733

Applicant(s)

VOLPENHEIN ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 10-42 is/are pending in the application.
- 4a) Of the above claim(s) 29-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-28 and 40-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/23/05 (Fig 18-20); 8/14/01 (Fig 1-17) is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 9, 2006 has been entered.
2. Claims 1-7, 10-42 are pending. Claims 29-39 have been withdrawn from consideration.

***Specification***

3. The **disclosure is objected** to because of the following informalities: on **page 16**, last line and **page 25**, line 25, it is suggested that the copending U.S. Application Numbers be updated to their corresponding patents or pregrant publication numbers.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. Claims 1-7, 10-28, 40-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the phrases “having at least one hydrophobic outer ply” in lines 3-4 and “the material is wholly or partially covered by a coversheet” in line 9 (last line) are redundant. In the specification on page 24, lines 16-30, the outer sheet is the coversheet.

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Claim 7 recites the limitation "the coversheet" in 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-6, 10-42, being dependent upon claim 1, are rejected as well.

***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-7, 10-28, 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers in view of Edwards et al. (US Patent No. 4,076,633), hereinafter "Edwards".

Rogers teaches an article for treating fabrics in a clothes dryer which comprises: a) an absorbent carrier substrate; b) a liquid cleaning/refreshment composition releasably absorbed in said substrate; said substrate being wholly or partly covered by (c) a fibrous coversheet having a minimum thickness (uncompressed) of about 8 mils (0.2 mm) (see abstract). As shown in Figure 1, the article can be assembled as a laminate comprising a topmost fibrous sheet (1a), an absorbent carrier sheet as the core (1b) and a bottommost fibrous sheet (1c), and the combination of topsheet and botomsheet comprises the "coversheet" (see page 5, lines 3-6; Figure 1). The coversheet substantially envelops and encases said substrate (see page 3, lines 3-4). The coversheets are constructed from hydrophobic fibers (see page 5, last paragraph) such as polyethylene or nylon (see page 6, lines 5, 19-22) and can be ring rolled or crimped to provide three dimensional bulk (see page 6, second line from last). In Example 1, Rogers teaches a carrier sheet of HYDRASPUN®, which is a blend of cellulosic, rayon, polyester and optional

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bicomponent fibers (see page 9, lines 3-7), covered on both sides with a topsheet and a bottomsheets of 8 mil Reemay fabric coversheet material, into which is poured a liquid fabric cleaning/refreshment product comprising water and an ethoxylated nonionic surfactant, wherein holes are punched in the carrier sheet in order to minimize its tendency to re-fold in-use (see page 42, last four lines; entire page 43). Rogers, however, fails to specifically disclose (1) at least one central layer, aside from the hydrophilic inner layer as required in claims 1 and 7, (2) the carrier sheet being prepared by the recited technology in claims 5-6, and (3) the coversheet comprising ink, paint or consumer signal component as required in claims 20, 21 and 40.

Edwards teaches a similar softening article which is adapted for use in an automatic clothes dryer (see abstract) which comprises a multi-ply substrate, preferably paper, having 2 or 3 plies (see col. 8, lines 7-41; col. 21, lines 15-22; Example II in cols. 23-24), and which article provides softness and ease of ironing to fabrics treated therewith.

With respect to difference (1), it would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the multi-ply substrate of Edwards together with the absorbent carrier substrate of Rogers because such incorporation to said substrate provide softness and ease of ironing to fabrics as taught by Edwards.

With respect to difference (2), it should be noted that the present claims are product-by-process claims, hence, any difference imparted by the product by process limitations would have been obvious to one having ordinary skill in the art at the time the invention was made because where the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is patentably distinct, not

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the examiner to show the same process of making, see *In re Brown*, 173 USPQ 685 and *In re Fessmann*, 180 USPQ 324.

With respect to difference (3), it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate consumer signal in the form of ink or paint in the coversheet of Rogers because every article of commerce is provided with an indicia in these forms.

### ***Response to Arguments***

7. Applicant's arguments filed on June 9, 2006 have been fully considered but they are not persuasive.

With respect to the obviousness rejection based upon Rogers in view of Edwards, Applicants argue that the claims, as amended, are believed to be in condition for allowance.

The Examiner respectfully disagrees with the above arguments in view of the rejection as recited above.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

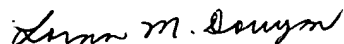
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313.

The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lorna M. Douyon  
Primary Examiner  
Art Unit 1751